

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
CASE NO.**

| | | |
|---------------------------------|---|--|
| JALA, INC., d/b/a BEST WESTERN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| AUTO-OWNERS INSURANCE |) | |
| COMPANY |) | |
| |) | |
| |) | |
| Defendant. |) | |

NOTICE OF REMOVAL

TO: The United States District Court
for the Eastern District of North Carolina/Southern Division.

NOW COMES the Defendant, AUTO-OWNERS INSURANCE COMPANY, through undersigned counsel, and pursuant to 28 U.S.C. § 1332, hereby removes this case from the General Court of Justice, Superior Division, Robeson County, North Carolina. The Defendant denies, in whole or in part, the allegations contained in the Complaint and the damages claimed therein and files this Notice without waiving any defenses, exceptions, or obligations that may exist in its favor in State or Federal Court. In support of this Notice of Removal, the Defendant shows unto the Court the following:

I. On or about August 31, 2021, Plaintiff commenced this action by filing a Complaint in the Superior Court of Robeson County, North Carolina captioned as *Jala, Inc, d/b/a Best Western v. Auto-Owners Insurance Company*, Civil Action No. 21 CVS 02255. A copy of all State court pleadings is attached hereto.

II. As more fully set out below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because (1) this Defendant has satisfied the procedural

requirements for removal, and (2) this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

I. Defendant has Satisfied the Procedural Requirements for Removal

A. This Notice of Removal is being timely filed pursuant to 28 U.S.C. § 1446(b) because it is filed within 30 days of service on the Defendant. Defendant was served by certified mail on September 7, 2021.

B. Generally the amount in controversy is determined by reference to the Plaintiff's Complaint. *JTH Tax, Inc. v. Frashier*, 624 F.3d 635, 639 (4th Cir. 2010). However, "[w]hen the amount of damages a plaintiff seeks is unclear, the court may look to the entire record before it and make an independent evaluation as to whether or not the jurisdictional amount is in issue." *Dash v. FirstPlus Home Loan Trust 1996-2*, 248 F. Supp. 2d 489, 498 (M.D.N.C. 2003) (internal quotation and citations omitted). North Carolina procedural rules requiring certain claims to be pled "in excess of certain dollar amount[s] . . . mak[es] it difficult to determine the exact amount in controversy." *Lee Elec. Constr., Inc. v. Eagle Elec., LLC*, 1:03CV00065, 2003 U.S. Dist. LEXIS 9956, *10 (M.D.N.C. June 10, 2003).

C. The Plaintiff, in its Complaint, requests "compensatory damages exceeding \$25,000.00; treble damages exceeding \$25,000.00; [and] punitive damages exceeding \$25,000.00."

D. In sum, the Plaintiff requests damages exceeding \$75,000.00 which satisfied the amount in controversy requirement necessary for this Court to have jurisdiction over this matter.

II. Complete Diversity of Citizenship Exists Between Plaintiffs and Defendant.

A. There is complete diversity between Plaintiff, a business corporation and citizen of North Carolina, and the Defendant, a business corporation of and citizen of Michigan.

B. Plaintiff is a corporation organized under the laws of the State of North Carolina with its principal place of business in North Carolina, and, therefore, is a citizen of North Carolina for purposes of determining diversity. 28 U.S.C. § 1332(c)(1).

C. Auto-Owners Insurance Company is and was at the time Plaintiff commenced this action, a corporation organized under the laws of the State of Michigan with its principal place of business in Michigan, and, therefore, is a citizen Michigan for purposes of determining diversity. 28 U.S.C. § 1332(c)(1).

WHEREFORE, Defendant respectfully requests this matter be removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

This the 6th day of October, 2021.

BROWN, CRUMP, VANORE & TIERNEY, PLLC

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing document was served upon counsel for all parties by United States Mail, first class postage prepaid, addressed as follows:

J. Anthony Penry
Penry Riemann, PLLC
2245 Gateway Access Point, Suite 203
Raleigh, NC 27607
Attorney for Plaintiff

This the 6th day of October, 2021.

BROWN, CRUMP, VANORE & TIERNEY, PLLC

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